

MARITIME TRANSPORTATION AMENDMENTS OF 2004

NOVEMBER 16, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 4251]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4251) to amend various laws relating to maritime transportation, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Maritime Transportation Amendments of 2004”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—COAST GUARD

- Sec. 101. Contingent expenses.
- Sec. 102. Maximum service in active status for reserve rear admirals.
- Sec. 103. Confidential investigative expenses.
- Sec. 104. Renewal of advisory groups.
- sec. 105. Restriction on procurement of response boat-medium vessels with foreign manufactured engines.

TITLE II—MARINE SAFETY AND ENVIRONMENTAL PROTECTION

- Sec. 201. Enforcement.
- Sec. 202. In rem liability for civil penalties.
- Sec. 203. Delegation of port security authority.
- Sec. 204. Notification of deficiencies.
- Sec. 205. Drug testing reporting.
- Sec. 206. Judicial review of National Transportation Safety Board final orders.
- Sec. 207. Inspection of towing vessels.
- Sec. 208. Westlake chemical barge documentation.
- Sec. 209. Conveyances.
- Sec. 210. Authority to settle.
- Sec. 211. Potable water.
- Sec. 212. Interim authority for dry bulk cargo residue disposal.

TITLE I—COAST GUARD

SEC. 101. CONTINGENT EXPENSES.

Section 476 of title 14, United States Code, is amended—
 (1) by striking “\$7,500” and inserting “\$50,000”; and
 (2) by striking the second sentence.

SEC. 102. MAXIMUM SERVICE IN ACTIVE STATUS FOR RESERVE REAR ADMIRALS.

Section 743 of title 14, United States Code, is amended by striking “combined service in the grades of rear admiral and rear admiral (lower half)” and inserting “of service after the appointment of the officer to rear admiral (lower half)”.

SEC. 103. CONFIDENTIAL INVESTIGATIVE EXPENSES.

Section 658 of title 14, United States Code, is amended by striking “\$15,000 per annum” and inserting “\$45,000 each fiscal year”.

SEC. 104. RENEWAL OF ADVISORY GROUPS.

(a) **COMMERCIAL FISHING INDUSTRY VESSEL SAFETY ADVISORY COMMITTEE.**—Section 4508(e)(1) of title 46, United States Code, is amended by striking “on September 30, 2005” and inserting “on September 30, 2010”.

(b) **HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.**—Section 18 of the Coast Guard Authorization Act of 1991 (Public Law 102–241; 105 Stat. 2213) is amended—

- (1) in subsection (b) by striking “eighteen” and inserting “19”;
- (2) by adding at the end of subsection (b) the following:
 “(12) One member representing recreational boating interests.”; and
- (3) in subsection (h) by striking “September 30, 2005” and inserting “September 30, 2010”.

(c) **LOWER MISSISSIPPI RIVER WATERWAY SAFETY ADVISORY COMMITTEE.**—Section 19(g) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking “September 30, 2005” and inserting “September 30, 2010”.

(d) **GREAT LAKES PILOTAGE ADVISORY COMMITTEE.**—Section 9307(f)(1) of title 46, United States Code, is amended by striking “September 30, 2005” and inserting “September 30, 2010”.

(e) **NAVIGATION SAFETY ADVISORY COUNCIL.**—Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(d)) is amended by striking “September 30, 2005” and inserting “September 30, 2010”.

(f) **NATIONAL BOATING SAFETY ADVISORY COUNCIL.**—Section 13110(e) of title 46, United States Code, is amended by striking “September 30, 2005” and inserting “September 30, 2010”.

(g) **TOWING SAFETY ADVISORY COMMITTEE.**—Public Law 96–380 (33 U.S.C. 1231a) is amended in subsection (e) by striking “September 30, 2005” and inserting “September 30, 2010”.

SEC. 105. RESTRICTION ON PROCUREMENT OF RESPONSE BOAT-MEDIUM VESSELS WITH FOREIGN MANUFACTURED ENGINES.

(a) **IN GENERAL.**—Except as provided in subsection (b), the Coast Guard may not procure a Response Boat-Medium vessel if—

- (1) the engine is not manufactured in the United States; or
- (2) substantially all of the components of the engine are not produced or manufactured in the United States.

(b) **EXCEPTION.**—The Coast Guard may procure a vessel having an engine that does not comply with subsection (a) if the Secretary of the department in which the Coast Guard is operating determines that —

- (1) the price of a vessel with an engine that complies with subsection (a) is unreasonable; or
- (2) emergency circumstances exist.

TITLE II—MARINE SAFETY AND ENVIRONMENTAL PROTECTION

SEC. 201. ENFORCEMENT.

(a) **IN GENERAL.**—Chapter 701 of title 46, United States Code, is amended by adding at the end the following:

“§ 70118. Firearms, arrests, and seizure of property

“Subject to guidelines approved by the Secretary, members of the Coast Guard may, in the performance of official duties—

“(1) carry a firearm; and

“(2) while at a facility—

“(A) make an arrest without warrant for any offense against the United States committed in their presence; and

“(B) seize property as otherwise provided by law.

“§ 70119. Enforcement by State and local officers

“(a) IN GENERAL.—Any State or local government law enforcement officer who has authority to enforce State criminal laws may make an arrest for violation of a security zone regulation under section 1 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 191) or security or safety zone regulation under section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) prescribed by a Coast Guard official authorized by law to prescribe such regulations, if—

“(1) such violation is a felony; and

“(2) the officer has reasonable grounds to believe that the person to be arrested has committed or is committing such violation.

“(b) OTHER POWERS NOT AFFECTED.—The provisions of this section are in addition to any power conferred by law to such officers. This section shall not be construed as a limitation of any power conferred by law to such officers, or any other officer of the United States or any State. This section does not grant to such officers any powers not authorized by the law of the State in which those officers are employed.”.

(b) CLERICAL AMENDMENT.—The chapter analysis at the beginning of chapter 701 of title 46, United States Code, is amended by adding at the end the following:

“70118. Firearms, arrests, and seizure of property.

“70119. Enforcement by State and local officers.”.

SEC. 202. IN REM LIABILITY FOR CIVIL PENALTIES.

(a) MARITIME TRANSPORTATION SECURITY ACT.—

(1) IN GENERAL.—Section 70117 of title 46, United States Code, is amended—

(A) by striking the section heading and inserting the following:

“§ 70117. Penalties”;

(B) by inserting “(a) IN GENERAL.—” before “Any”; and

(C) by adding at the end the following:

“(b) IN REM LIABILITY.—Any vessel that is used in violation of this chapter, or of any regulation issued under this chapter, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) and may be proceeded against in the United States district court for any district in which such vessel may be found.

“(c) WITHHOLDING OF CLEARANCE.—

“(1) IN GENERAL.—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (a), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under subsection (a), the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

“(2) CLEARANCE UPON FILING OF BOND OR OTHER SURETY.—The Secretary may require the filing of a bond or other surety as a condition of granting clearance refused or revoked under this subsection.”.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by revising the item relating to section 70117 to read as follows:

“70117. Penalties.”.

(b) MAGNUSON ACT.—Section 2 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 192), is amended—

(1) in subsection (c) by striking “Act” each time it appears and inserting “title”; and

(2) by inserting at the end the following:

“(d) IN REM LIABILITY.—Any vessel that is used in violation of this title, or of any regulation issued under this title, shall be liable in rem for any civil penalty assessed pursuant to subsection (c) and may be proceeded against in the United States district court for any district in which such vessel may be found.

“(e) WITHHOLDING OF CLEARANCE.—

“(1) IN GENERAL.—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under this section, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

“(2) CLEARANCE UPON FILING OF BOND OR OTHER SURETY.—The Secretary may require the filing of a bond or other surety as a condition of granting clearance refused or revoked under this subsection.”.

SEC. 203. DELEGATION OF PORT SECURITY AUTHORITY.

The undesignated text following paragraph (b) of the second unnumbered paragraph of section 1 of title II of the Act of June 15, 1917 (chapter 30; 40 Stat. 220; 50 U.S.C. 191) is amended by adding at the beginning the following: “The President may delegate the authority to issue such rules and regulations to the Secretary of the department in which the Coast Guard is operating.”.

SEC. 204. NOTIFICATION OF DEFICIENCIES.

(a) CORRECTION OF DEFICIENCIES.—Section 3313(b)(1) of title 46, United States Code, is amended by striking “be ordered in writing to correct the noted deficiencies promptly” and inserting “promptly correct any deficiencies”.

(b) NOTIFICATION TO VESSEL.—

(1) IN GENERAL.—Section 3712 of title 46, United States Code, is amended to read as follows:

“§ 3712. Notification of deficiencies

“The Secretary shall notify the owner, charterer, managing operator, agent, master, or individual in charge of a vessel of deficiencies found during any inspection or examination under this chapter.”.

(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 37 of title 46, United States Code, is amended by striking the item related to section 3712 and inserting the following:

“3712. Notification of deficiencies.”.

SEC. 205. DRUG TESTING REPORTING.

(a) IN GENERAL.—Chapter 77 of title 46, United States Code, is amended by adding at the end:

“§ 7706. Drug testing reporting

“(a) RELEASE OF DRUG TEST RESULTS TO COAST GUARD.—Not later than 2 weeks after receiving from a Medical Review Officer a report of a verified positive drug test or verified test violation by a civilian employee of a Federal agency, an officer in the Public Health Services, or an officer in the National Oceanic and Atmospheric Administration Commissioned Officer Corps, who is employed in any capacity on board a vessel operated by the agency, the head of the agency shall release to the Commandant of the Coast Guard the report.

“(b) STANDARDS, PROCEDURES, AND REGULATIONS.—The head of a Federal agency shall carry out a release under subsection (a) in accordance with the standards, procedures, and regulations applicable to the disclosure and reporting to the Coast Guard of drug tests results and drug test records of individuals employed on vessels documented under the laws of the United States.

“(c) WAIVER.—Notwithstanding section 503(e) of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note), the report of a drug test of an employee may be released under this section without the prior written consent of the employee.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 77 of title 46, United States Code, is amended by adding at the end the following:

“7706. Drug testing reporting.”.

SEC. 206. JUDICIAL REVIEW OF NATIONAL TRANSPORTATION SAFETY BOARD FINAL ORDERS.

Section 1153 of title 49, United States Code, is amended by adding at the end the following:

“(d) COMMANDANT SEEKING JUDICIAL REVIEW OF MARITIME MATTERS.—If the Commandant of the Coast Guard decides that an order of the Board issued pursuant to a review of a Coast Guard action under section 1133 of this title will have an adverse impact on maritime safety or security, the Commandant may obtain judicial review of the order under subsection (a). The Commandant, in the official capacity of the Commandant, shall be a party to the judicial review proceedings.”.

SEC. 207. INSPECTION OF TOWING VESSELS.

(a) VESSELS SUBJECT TO INSPECTION.—Section 3301 of title 46, United States Code, is amended by adding at the end the following:

“(15) towing vessels.”.

(b) SAFETY MANAGEMENT SYSTEM.—Section 3306 of chapter 33 of title 46, United States Code, is amended by adding at the end the following:

“(j) The Secretary may establish by regulation a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels.”.

SEC. 208. WESTLAKE CHEMICAL BARGE DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for each of the following vessels:

- (1) Barge WCAO-101 (United States official number 506677).
- (2) Barge WCAO-102 (United States official number 506851).
- (3) Barge WCAO-103 (United States official number 506852).
- (4) Barge WCAO-104 (United States official number 507172).
- (5) Barge WCAO-105 (United States official number 507173).
- (6) Barge WCAO-106 (United States official number 620514).
- (7) Barge WCAO-107 (United States official number 620515).
- (8) Barge WCAO-108 (United States official number 620516).
- (9) Barge WCAO-3002 (United States official number 295147).
- (10) Barge WCAO-3004 (United States official number 517396).

SEC. 209. CONVEYANCES.

(a) **IN GENERAL.**—The Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to each of the vessels described in subsection (b) to the recipient listed in subsection (b) with respect to that vessel, without consideration, if the recipient complies with the conditions under subsection (c).

(b) **VESSEL DESCRIBED.**—The vessels and recipients referred to in subsection (a) are the following:

(1) The Coast Guard 44-foot Motor Life Boat Vessel #44345 formally assigned to the Group Grand Haven Command, to the city of Ludington, Michigan.

(2) One decommissioned “Balsam Class” 180-foot Coast Guard vessel (whether decommissioned before or after the date of enactment of this Act) to CAS Foundation, Inc. (a nonprofit corporation under the laws of the State of Indiana).

(c) **CONDITIONS.**—As a condition of any conveyance of a vessel under subsection (a), the Commandant shall require the recipient to—

(1) agree—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use of the vessel by the Government under subparagraph (C);

(2) have funds available that will be committed to operate and maintain the vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment; and

(3) agree to any other conditions the Commandant considers appropriate.

(d) **MAINTENANCE AND DELIVERY OF VESSEL.**—Prior to conveyance of a vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. The Commandant shall deliver a vessel conveyed under this section at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94-469 (15 U.S.C. 2605(e)).

(e) **OTHER EXCESS EQUIPMENT.**—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel’s operability and function as an historical display.

SEC. 210. AUTHORITY TO SETTLE.

Section 1015 of the Oil Pollution Act of 1990 (33 U.S.C. 2715) is amended by adding at the end the following:

“(d) **AUTHORITY TO SETTLE.**—The head of any department or agency responsible for recovering amounts for which a person is liable under this title may consider, compromise, and settle a claim for such amounts, including such costs paid from the Fund, if the claim has not been referred to the Attorney General. In any case in which the total amount to be recovered may exceed \$500,000 (excluding interest), a claim may be compromised and settled under the preceding sentence only with the prior written approval of the Attorney General.”.

SEC. 211. POTABLE WATER.

Section 3305(a) of title 46, United States Code, is amended—

- (1) by redesignating paragraphs (4) and (5) in order as paragraphs (5) and (6); and
- (2) by inserting after paragraph (3) the following:
“(4) has an adequate supply of potable water for drinking and washing by the passengers and crew;”.

SEC. 212. INTERIM AUTHORITY FOR DRY BULK CARGO RESIDUE DISPOSAL.

(a) **EXTENSION OF INTERIM AUTHORITY.**—The Secretary of the department in which the Coast Guard is operating shall continue to implement and enforce the notice to mariners entitled “2004 Enforcement Policy for Cargo Residues on the Great Lakes” in accordance with such notice until the earlier of—

- (1) the date regulations are promulgated under subsection (b) for the regulation of incidental discharges from vessels of dry bulk cargo residue into the waters of the Great Lakes under the jurisdiction of the United States; or
- (2) September 30, 2006.

(b) **PERMANENT AUTHORITY.**—The Commandant of the Coast Guard may promulgate regulations governing the discharge of dry bulk cargo residue on the Great Lakes.

PURPOSE OF THE LEGISLATION

H.R. 4251 amends existing legislative statutes that authorize activities of the United States Coast Guard to enhance the Service’s ability to promote and protect marine safety and security and for other purposes.

BACKGROUND AND NEED FOR THE LEGISLATION

The United States Coast Guard was established on January 28, 1915, through the consolidation of the Revenue Cutter Service (established in 1790) and the Lifesaving Service (established in 1848). The Coast Guard later assumed the duties of three other agencies: the Lighthouse Service (established in 1789), the Steamboat Inspection Service (established in 1838), and the Bureau of Navigation (established in 1884).

The Coast Guard remained a part of the Department of the Treasury until 1967, when it was transferred to the newly created Department of Transportation. Under the Homeland Security Act of 2002, Public Law 107–296, the Coast Guard moved to the new Department of Homeland Security on March 1, 2003.

Under section 2 of title 14, United States Code, the Coast Guard has primary responsibility to enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States; to ensure safety of life and property at sea; to protect the marine environment; to carry out domestic and international icebreaking activities; and to ensure the safety and security of vessels, ports, waterways, and related facilities.

As the fifth armed force of the United States, the Coast Guard also maintains defense readiness to operate as a specialized service in the Navy upon the declaration of war or when the President directs. The Coast Guard is composed of approximately 40,000 active duty military personnel, 8,100 reservists, 6,100 civilian employees, and 37,000 volunteers of the Coast Guard Auxiliary. The Coast Guard has defended the Nation in every war since 1790. In fact, the Coast Guard deployed assets to the Persian Gulf and Mediterranean region to take part in the U.S. military’s Operation Iraqi Freedom.

SUMMARY OF THE LEGISLATION

H.R. 4251 amends various existing legislative statutes that authorize activities of the Coast Guard to enhance the Service's authority to promote and protect marine safety and to enforce port security regulations.

Sec. 101 increases the funding level available to be used for Coast Guard contingent expenses to an amount of \$50,000 per fiscal year. These funds are used by the Service for representational and reception purposes. The current authorized level is \$7,500 and has not been increased since being established in 1949.

Sec. 102 clarifies language that outlines the maximum term of service in active status for reserve rear admirals of the Coast Guard to ensure that reserve officers may serve a full four-year term at that position.

Sec. 103 increases the funding level available to be used for Coast Guard confidential investigative expenses to an amount of \$45,000 per fiscal year. The current authorized amount is \$15,000 and has not been increased since being established in 1974.

Sec. 104 reauthorizes seven advisory groups established under the authority of the Federal Advisory Committee Act (FACA) and extends the date of termination five years to September 30, 2010. This section also adds a member to represent recreational boating interests to the Houston-Galveston Navigation Safety Advisory Committee.

Sec. 105 restricts the Coast Guard's ability to procure Response Boat-Medium vessels unless those vessels are equipped with engines manufactured in the United States or composed substantially of components produced and manufactured in the United States. This section also establishes circumstances under which the Coast Guard may be excepted from these restrictions.

Sec. 201 expressly authorizes members of the Coast Guard to carry firearms and while at shoreside facilities make warrantless arrests and seize property as provided by law. This section also authorizes State and local officers to arrest persons suspected of violating Federal security zone regulations provided that States have already authorized those officers to enforce Federal port security measures.

Sec. 202 established in rem liability for any vessel used to violate regulations issued under the authorization of the Maritime Transportation Security Act in order to recover financial penalties assessed following such violations. Section 202 also authorizes the Captain of the Port to withhold clearance of any vessel if the owner or operators are suspected to be subject to a financial penalty resulting from violations of port security regulations. This section also allows clearance to be granted upon the filing of a surety bond.

Sec. 203 authorizes the President to delegate authority to the Secretary of the Department in which the Coast Guard is operating to issue rules and regulations under the authority of 50 U.S.C. 191. 50 U.S.C. 191 allows for the emergency regulation of vessels in time of national emergency.

Sec. 204 eliminates the requirement that the Coast Guard notify in writing ship owners and operators of deficiencies discovered during inspections and examinations and instruct the appropriate person on the method that should be used to correct those deficiencies.

The new language will require prompt corrections of any deficiency upon discovery.

Sec. 205 requires Federal agencies to submit results of positive drug tests and verified test violations from civilian and certain uniformed personnel employed aboard federally-operated vessels to the Coast Guard.

Sec. 206 clarifies that the Coast Guard has the authority to appeal final orders issued by the National Transportation Safety Board (NTSB) regarding maritime cases.

Sec. 207 identifies towing vessels as a vessel class required to be regularly inspected by the Coast Guard and authorizes the Secretary of the Department in which the Coast Guard is operating to establish a safety management system appropriate for towing vessels.

Sec. 208 authorizes the Coast Guard to restore certificates of documentation with appropriate endorsements for coastwise trade to ten U.S.-built and operated barges owned by the Westlake Chemical Corporation of Houston, Texas.

Sec. 209 conveys a decommissioned Coast Guard 44-foot Motor Life Boat to the City of Luddington, Michigan and a 180-foot, Balsam Class Coast Guard Vessel to the CAS Foundation, Inc., a non-profit corporation in the State of Indiana, upon decommission of such a vessel.

Sec. 210 authorizes the Coast Guard to settle claims assessed for actions completed under the authority of the Oil Pollution Act of 1990 (OPA) that total less than \$500,000. This section gives the Coast Guard the authority to settle at the same level as the Environmental Protection Agency, the other agency responsible for oil mitigation and recovery activities under OPA.

Sec. 211 requires that vessels subject to inspection by the Coast Guard have an adequate supply of potable water for drinking and washing.

Sec. 212 extends the authority to dispose of non-hazardous, non-toxic dry bulk residues while transiting on waters of the Great Lakes for a period of two years or the date that regulations are promulgated by the Secretary of the Department in which the Coast Guard is operating regarding the disposal of dry bulk cargo residue, whichever should occur earlier. This section also grants the Secretary the authority to promulgate permanent regulations governing the discharge of dry bulk cargo residue.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

H.R. 4251 was introduced on April 30, 2004 by the Honorable Don Young, Chairman, Committee on Transportation and Infrastructure with original co-sponsors Congressman Frank A. LoBiondo, Chairman, Subcommittee on Coast Guard and Maritime Transportation; Congressman James L. Oberstar, Ranking Member, Committee on Transportation and Infrastructure; and Congressman Bob Filner, Ranking Member, Subcommittee on Coast Guard and Maritime Transportation.

The bill was referred to the Committee on Transportation and Infrastructure. On May 6, 2004 the Subcommittee on Coast Guard and Maritime Transportation held a legislative hearing on H.R. 4251.

The bill was discharged from the Subcommittee and considered during a mark-up session of the Full Committee on May 12, 2004. At this markup, an amendment was offered by Mr. Taylor of Mississippi to require the Coast Guard to fit all Response Boat-Medium vessels with engines manufactured in the United States. The amendment was adopted unanimously by voice vote. An amendment was offered by Mr. Oberstar to add two new sections to the end of Title II to require the availability of potable water aboard all ships subject to inspection and to extend the authority for vessels to dispose of non-toxic, non-hazardous residues while transiting in the Great Lakes. The amendment was adopted unanimously by voice vote.

H.R. 4251, as amended, was approved unanimously by voice vote and was ordered favorably reported to the Committee of the Whole House on the State of the Union.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. No rollcall votes were ordered during the consideration of H.R. 4251.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, this bill does not authorize any funding.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 4251 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 4, 2004.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure, House
of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4251, the Maritime Transportation Amendments of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

ELIZABETH ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 4251—Maritime Transportation Amendments of 2004

Summary: H.R. 4251 would amend various laws that govern the operations of the U.S. Coast Guard. Assuming appropriation of the necessary amounts, CBO estimates that implementing the proposed changes would cost \$2 million in fiscal year 2005 and a total of \$64 million over the 2005–2009 period. Complying with a provision that could restrict the Coast Guard's purchase of certain foreign-built engines might increase the costs of the agency's procurement program, but CBO has no basis for estimating such costs. Finally, we estimate that enacting H.R. 4251 would reduce direct spending by increasing offsetting receipts from inspection fees by \$2 million a year, beginning in fiscal year 2008. Enacting the bill would not affect revenues.

This bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

H.R. 4251 would impose private-sector mandates on owners and operators of certain vessels. Based on information provided by government and industry representatives, CBO estimates that the cost to comply with those mandates would not likely exceed the annual threshold established by UMRA for private-sector mandates (\$120 million in 2004, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4251 is shown in the following table. The cost of this legislation falls within budget function 400 (transportation).

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Spending for Coast Guard Inspections:					
Estimated Authorization Level	2	4	4	25	25
Estimated Outlays	2	4	4	25	25
Spending for Vessel Safety Advisory Groups:					
Estimated Authorization Level	0	1	1	1	1
Estimated Outlays	0	1	1	1	1
Total Changes ¹ :					
Estimated Authorization Level	2	5	5	26	26
Estimated Outlays	2	5	5	26	26
CHANGES IN DIRECT SPENDING					
Estimated Budget Authority	0	0	0	–2	–2

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
Estimated Outlays	0	0	0	–2	–2

¹ CBO estimates that the Coast Guard will spend about \$85 million in 2004 to conduct vessel inspections and about \$1 million for advisory group expenses.

Basis of estimate: For this estimate, CBO assumes that H.R. 4251 will be enacted by the end of fiscal year 2004 and that the amounts estimated to be necessary to promulgate and enforce the proposed changes to the Coast Guard's inspection program will be appropriated for each fiscal year. Outlay estimates are based on spending patterns for Coast Guard regulatory programs.

Spending Subject to Appropriation

Vessel Safety Inspections. H.R. 4251 would make two significant changes in the Coast Guard's vessel inspection program. First, the bill would require that all commercial vessels inspected by the Coast Guard carry potable water for crew and passengers. In addition, the bill would expand the inspection program to include all American-flag towing vessels. Based on the historical experience of other Coast Guard regulatory initiatives, CBO estimates that the agency would spend \$2 million in fiscal year 2005 and \$4 million in each of fiscal years 2006 and 2007 to implement these requirements. The funds would be used to promulgate the standards and rules needed to establish new regulations, develop a fee schedule for new inspections, and hire, train, and equip new inspectors. We estimate that carrying out the new inspections and enforcing new potable water requirements would increase the cost of the vessel inspection program by \$25 million a year by 2008.

Buy-America Requirements for Certain Coast Guard Vessels. The bill could prohibit the Coast Guard from acquiring response boats-medium (a type of vessel used for search and rescue and other agency activities) if they contain engines that are manufactured outside of the United States. The prohibition would not apply in emergencies or if the price of eligible vessels is unreasonable.

CBO does not have sufficient data to estimate the cost of complying with this provision. At present, the Coast Guard plans to purchase about 180 of these vessels, but the agency has not yet chosen a supplier or assessed the costs and benefits of various proposals (two out of three of which use American-made engines). In general, CBO expects that restricting the sources of supply of vessels or other equipment to those with American-made components could affect the Coast Guard's procurement program and may increase the need for future appropriations.

Advisory Groups. Section 104 would extend by five years the life of seven committees or councils that advise the Coast Guard on safety issues. CBO estimates that paying travel and other expenses for members of these organizations would cost the Coast Guard about \$1 million a year over the 2006–2009 period (and an additional \$1 million in 2010).

Direct Spending

Under current law, the Coast Guard is authorized to charge fees for the inspection of commercial vessels. Based on existing inspection fees, CBO estimates that the agency would collect additional

offsetting receipts of \$2 million a year for inspections of towing vessels once regulations to implement the bill's requirements have been finalized. For this estimate we assume that the new regulations would require inspections of up to 5,500 boats every five years, with initial inspections to be phased in over a three-year period, beginning in fiscal year 2008.

Estimated impact on state, local, and tribal governments: H.R. 4251 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: H.R. 4251 would impose private-sector mandates as defined in UMRA on certain vessels. Based on information obtained from government and industry representatives, CBO estimates that the aggregate cost of private-sector mandates in the bill would fall below the annual threshold established in UMRA (\$120 million in 2004, adjusted annually for inflation).

H.R. 4251 would require towing vessels to be subject to inspection by the Coast Guard. Although those vessels are subject to some federal regulations, the Coast Guard is not required to inspect them. The Coast Guard also would likely establish, by regulation, safety standards for towing vessels that may expand the standards that the owners of those vessels currently comply with voluntarily. In addition, the Coast Guard would impose a fee on the towing vessels to cover the cost of the inspection. CBO estimates the inspection fee would amount to about \$2 million annually.

The bill also would require those vessels that are subject to Coast Guard inspection to have an adequate supply of potable water for drinking and washing by the passengers and crew.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector: Selena Caldera.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is in-

tended to preempt state, local, or tribal law. The Committee states that H.R. 4251 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

TITLE 14, UNITED STATES CODE

* * * * *

PART I—REGULAR COAST GUARD

* * * * *

CHAPTER 13—PAY, ALLOWANCES, AWARDS, AND OTHER RIGHTS AND BENEFITS

* * * * *

§ 476. Contingent expenses

The Commandant may expend for contingencies of the Coast Guard a sum not to exceed **[\$7,500]** *\$50,000* in any one fiscal year. **[The Commandant may authorize the Superintendent of the Academy to expend not to exceed \$2,500 of this amount for contingencies of the Academy.]**

* * * * *

CHAPTER 17—ADMINISTRATION

* * * * *

§ 658. Confidential investigative expenses

Not more than **[\$15,000 per annum]** *\$45,000 each fiscal year* appropriated for necessary expenses for the operation of the Coast Guard shall be available for investigative expenses of a confidential character, to be expended on the approval or authority of the Commandant and payment to be made on his certificate of necessity for confidential purposes, and his determination shall be final and conclusive upon the accounting officers of the Government.

* * * * *

PART II—COAST GUARD RESERVE AND AUXILIARY

* * * * *

CHAPTER 21—COAST GUARD RESERVE

* * * * *

SUBCHAPTER B

COMMISSIONED OFFICERS

* * * * *

§ 743. Rear admiral and rear admiral (lower half); maximum service in grade

Unless retained in or removed from an active status under any other law, a Reserve rear admiral or rear admiral (lower half) shall be removed from an active status on the day that officer completes four years **【combined service in the grades of rear admiral and rear admiral (lower half)】** *of service after the appointment of the officer to rear admiral (lower half).*

* * * * *

TITLE 46, UNITED STATES CODE

* * * * *

Subtitle II—Vessels and Seamen

* * * * *

PART B—INSPECTION AND REGULATIONS OF VESSELS

* * * * *

CHAPTER 33—INSPECTION GENERALLY

* * * * *

§ 3301. Vessels subject to inspection

The following categories of vessels are subject to inspection under this part:

(1) * * *

* * * * *

(15) *towing vessels.*

* * * * *

§ 3305. Scope and standards of inspection

(a) The inspection process shall ensure that a vessel subject to inspection—

(1) * * *

* * * * *

(4) *has an adequate supply of potable water for drinking and washing by the passengers and crew;*

[(4)] (5) is in a condition to be operated with safety to life and property; and

[(5)] (6) complies with applicable marine safety laws and regulations.

* * * * *

§ 3306. Regulations

(a) * * *

* * * * *

(j) *The Secretary may establish by regulation a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels.*

* * * * *

§ 3313. Compliance with certificate of inspection

(a) * * *

(b) When a vessel is not in compliance with its certificate or fails to meet a standard prescribed by this part or a regulation prescribed under this part—

(1) the owner, charterer, managing operator, agent, master, or individual in charge shall [be ordered in writing to correct the noted deficiencies promptly] *promptly correct any deficiencies;*

* * * * *

CHAPTER 37—CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

Sec.

3701. Definitions.

* * * * *

[3712. Notification of noncompliance.]

3712. *Notification of deficiencies.*

* * * * *

[§ 3712. Notification of noncompliance

[The Secretary shall notify the owner, charterer, managing operator, agent, master, or individual in charge of a vessel found not to be in compliance with a regulation prescribed under this part and state how compliance may be achieved.]

§ 3712. Notification of deficiencies

The Secretary shall notify the owner, charterer, managing operator, agent, master, or individual in charge of a vessel of deficiencies found during any inspection or examination under this chapter.

* * * * *

CHAPTER 45—UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

* * * * *

§ 4508. Commercial Fishing Industry Vessel Advisory Safety Committee

(a) * * *

* * * * *

(e)(1) The Federal Advisory Committee Act (5 App. U.S.C.) applies to the Committee, except that the Committee terminates on September 30, **[2005]** 2010.

* * * * *

PART E—MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

* * * * *

CHAPTER 77—SUSPENSION AND REVOCATION

Sec.

7701. General.

* * * * *

7706. *Drug testing reporting.*

* * * * *

§ 7706. Drug testing reporting

(a) *RELEASE OF DRUG TEST RESULTS TO COAST GUARD.—Not later than 2 weeks after receiving from a Medical Review Officer a report of a verified positive drug test or verified test violation by a civilian employee of a Federal agency, an officer in the Public Health Services, or an officer in the National Oceanic and Atmospheric Administration Commissioned Officer Corps, who is employed in any capacity on board a vessel operated by the agency, the head of the agency shall release to the Commandant of the Coast Guard the report.*

(b) *STANDARDS, PROCEDURES, AND REGULATIONS.—The head of a Federal agency shall carry out a release under subsection (a) in accordance with the standards, procedures, and regulations applicable to the disclosure and reporting to the Coast Guard of drug tests results and drug test records of individuals employed on vessels documented under the laws of the United States.*

(c) *WAIVER.—Notwithstanding section 503(e) of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note), the report of a drug test of an employee may be released under this section without the prior written consent of the employee.*

* * * * *

PART F—MANNING OF VESSELS

* * * * *

CHAPTER 93—GREAT LAKES PILOTAGE

* * * * *

§ 9307. Great Lakes Pilotage Advisory Committee

(a) * * *

* * * * *

(f)(1) The Federal Advisory Committee Act (5 U.S.C. App.) applies to the Committee, except that the Committee terminates on September 30, **[2005]** 2010.

* * * * *

PART I—STATE BOATING SAFETY PROGRAMS

CHAPTER 131—RECREATIONAL BOATING SAFETY

* * * * *

§ 13110. National Boating Safety Advisory Council

(a) * * *

* * * * *

(e) The Council shall terminate on September 30, **[2005]** 2010.

* * * * *

Subtitle VI—Miscellaneous

* * * * *

CHAPTER 701—PORT SECURITY

Sec.

70101. Definitions.

* * * * *

[70117. Civil penalty.]

70117. *Penalties.*

70118. *Firearms, arrests, and seizure of property.*

70119. *Enforcement by State and local officers.*

* * * * *

[§ 70117. Civil penalty]

§ 70117. Penalties

(a) *IN GENERAL.*—Any person that violates this chapter or any regulation under this chapter shall be liable to the United States for a civil penalty of not more than \$25,000 for each violation.

(b) *IN REM LIABILITY.*—Any vessel that is used in violation of this chapter, or of any regulation issued under this chapter, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) and may be proceeded against in the United States district court for any district in which such vessel may be found.

(c) *WITHHOLDING OF CLEARANCE.*—

(1) *IN GENERAL.*—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (a), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under subsection (a), the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

(2) *CLEARANCE UPON FILING OF BOND OR OTHER SURETY.*—The Secretary may require the filing of a bond or other surety as a condition of granting clearance refused or revoked under this subsection.

§ 70118. Firearms, arrests, and seizure of property

Subject to guidelines approved by the Secretary, members of the Coast Guard may, in the performance of official duties—

- (1) carry a firearm; and*
- (2) while at a facility—*
 - (A) make an arrest without warrant for any offense against the United States committed in their presence; and*
 - (B) seize property as otherwise provided by law.*

§ 70119. Enforcement by State and local officers

(a) IN GENERAL.—Any State or local government law enforcement officer who has authority to enforce State criminal laws may make an arrest for violation of a security zone regulation under section 1 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 191) or security or safety zone regulation under section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) prescribed by a Coast Guard official authorized by law to prescribe such regulations, if—

- (1) such violation is a felony; and*
- (2) the officer has reasonable grounds to believe that the person to be arrested has committed or is committing such violation.*

(b) OTHER POWERS NOT AFFECTED.—The provisions of this section are in addition to any power conferred by law to such officers. This section shall not be construed as a limitation of any power conferred by law to such officers, or any other officer of the United States or any State. This section does not grant to such officers any powers not authorized by the law of the State in which those officers are employed.

* * * * *

COAST GUARD AUTHORIZATION ACT OF 1991

* * * * *

SEC. 18. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

(a) * * *

(b) The Committee shall consist of [eighteen] 19 members, who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico:

(1) * * *

* * * * *

(12) *One member representing recreational boating interests.*

* * * * *

(h) The Committee shall terminate on September 30, [2005] 2010.

SEC. 19. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

(a) * * *

* * * * *

(g) The Committee shall terminate on September 30, **2010**.

* * * * *

SECTION 5 OF THE INLAND NAVIGATIONAL RULES ACT OF 1980

SEC. 5. (a) * * *

* * * * *

(d) Unless extended by subsequent Act of Congress, the Council shall terminate on **September 30, 2005** *September 30, 2010*.

ACT OF OCTOBER 6, 1980

(Public Law 96-380)

AN ACT To establish a Towing Safety Advisory Committee in the Department of Transportation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) * * *

* * * * *

(e) Unless extended by subsequent Act of Congress, the Committee shall terminate on **September 30, 2005** *September 30, 2010*.

* * * * *

ACT OF JUNE 15, 1917

CHAP. 30.—AN ACT To punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes.

* * * * *

TITLE II.

VESSELS IN PORTS OF THE UNITED STATES.

SECTION 1. Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States, or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to, or arriving off the coast of, the United States presents urgent circumstances requiring an immediate Federal response, the Secretary of Treasury may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, may inspect such vessel at any time, place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters

of the United States, or to secure the observance of the rights and obligations of the United States, may take, by and with the consent of the President, for such purposes, full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by him to go or remain on board thereof.

Whenever the President finds that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbances or threatened disturbances of the international relations of the United States, the President is authorized to institute such measures and issue such rules and regulations—

(a) * * *

* * * * *

Any appropriation available to any of the Executive Departments shall be available to carry out the provisions of this title. *The President may delegate the authority to issue such rules and regulations to the Secretary of the department in which the Coast Guard is operating.*

SEC. 2. (a) * * *

* * * * *

(c) CIVIL PENALTY.—A person violating this [Act] *title*, or a regulation prescribed under this [Act] *title*, shall be liable to the United States Government for a civil penalty of not more than \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation.

(d) *IN REM LIABILITY*.—Any vessel that is used in violation of this title, or of any regulation issued under this title, shall be liable in rem for any civil penalty assessed pursuant to subsection (c) and may be proceeded against in the United States district court for any district in which such vessel may be found.

(e) *WITHHOLDING OF CLEARANCE*.—

(1) *IN GENERAL*.—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under this section, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

(2) *CLEARANCE UPON FILING OF BOND OR OTHER SURETY*.—The Secretary may require the filing of a bond or other surety as a condition of granting clearance refused or revoked under this subsection.

* * * * *

SECTION 1153 OF TITLE 49, UNITED STATES CODE

§ 1153. Judicial review

(a) * * *

* * * * *

(d) *COMMANDANT SEEKING JUDICIAL REVIEW OF MARITIME MATTERS.*—If the Commandant of the Coast Guard decides that an order of the Board issued pursuant to a review of a Coast Guard action under section 1133 of this title will have an adverse impact on maritime safety or security, the Commandant may obtain judicial review of the order under subsection (a). The Commandant, in the official capacity of the Commandant, shall be a party to the judicial review proceedings.

SECTION 1015 OF THE OIL POLLUTION ACT OF 1990

SEC. 1015. SUBROGATION.

(a) * * *

* * * * *

(d) *AUTHORITY TO SETTLE.*—The head of any department or agency responsible for recovering amounts for which a person is liable under this title may consider, compromise, and settle a claim for such amounts, including such costs paid from the Fund, if the claim has not been referred to the Attorney General. In any case in which the total amount to be recovered may exceed \$500,000 (excluding interest), a claim may be compromised and settled under the preceding sentence only with the prior written approval of the Attorney General.

